

SERVICE DATE – SEPTEMBER 23, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1068 (Sub-No. 3X)

MISSOURI CENTRAL RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
CASS, PETTIS, BENTON, MORGAN, MILLER, COLE, OSAGE, MARIES, GASCONADE,
AND FRANKLIN COUNTIES, MO.

Decided: September 22, 2015

Missouri Central Railroad Company (MCRR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 144.3 miles of rail line in two segments: (1) between mileposts 263.5 and 262.906 near Pleasant Hill, in Cass County, Mo.; and (2) between milepost 215.325 near Windsor, in Pettis County, Mo., and milepost 71.6 near Beaufort, in Franklin County, Mo.¹ MCRR made the necessary certifications, including that no local traffic had moved over the line for at least two years, and notice of the exemption was served and published in the Federal Register on December 8, 2014 (79 Fed. Reg. 72,757). The exemption became effective on January 7, 2015.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on December 12, 2014. In its Final EA, dated January 5, 2015, OEA concluded that the proposed abandonment would have no potential for significant environmental impacts if four conditions were imposed. On January 6, 2015, the Board served a decision adopting all of OEA's analysis and conclusions and imposing the four environmental conditions recommended in the Final EA.² These conditions required MCRR to: (1) consult with the U.S. Army Corps of Engineers (Corps) prior to initiating salvage, and comply with the reasonable requirements of the Corps; (2) consult with the U.S. Environmental Protection Agency or the Missouri Department of Natural Resources, whichever has delegated authority to administer the federal National Pollution Discharge Elimination System (NPDES) Program, prior to initiating salvage, and comply with the reasonable NPDES requirements; (3) contact the U.S. Fish and Wildlife Service (USFWS) prior to beginning salvage, and consult with OEA and USFWS to develop appropriate mitigation measures if potential impacts are identified; and (4) retain its interest in and take no steps to alter the historic integrity of all historic properties until completion of the Section 106 process of the National Historic Preservation Act.

¹ The notice that was served and published embraced Central Midland Ry.—Discontinuance of Service Exemption—in Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade, & Franklin Cntys., Mo., Docket No. AB 1070 (Sub-No. 3X).

² A corrected decision was served on January 7, 2015.

By decision served on February 26, 2015, the Board issued a notice of interim trail use, imposing trail use and public use conditions. The time to negotiate interim trail use was extended to February 21, 2016 in a decision served on August 10, 2015.

In a Supplemental Final EA dated July 28, 2015, OEA recommended that three of the four Board-imposed conditions be removed, and that two new conditions be imposed. The Board, by decision served August 11, 2015, adopted OEA's recommendations. Specifically, the Board removed the first condition involving the Corps, the third condition involving USFWS, and the fourth condition pertaining to Section 106. The Board also added a condition to address USFWS's temporal restriction on tree clearing and cutting and a condition consistent with a requirement in a Memorandum of Agreement negotiated with the State Historic Preservation Officer and MCRR pertaining to cultural materials.

In a Revised Supplemental Final EA, dated September 3, 2015, OEA now recommends that the second condition pertaining to NPDES (adopted in the January 6, 2015 decision) be removed, because MCRR has now obtained a NPDES permit. Additionally, OEA states that the new USFWS restriction pertaining to tree clearing and cutting (adopted in the August 11, 2015 decision) contained an error that should be corrected. OEA states that, whereas its Supplemental Final EA and the August 11, 2015 decision indicated that no tree clearing or cutting should occur between November 1 and March 31, the condition instead should indicate that tree clearing or cutting for salvage operations is only allowed to occur between November 1 and March 31. OEA indicates that no other USFWS restrictions apply.

Based on OEA's recommendations, this proceeding will be reopened and the previously imposed second condition relating to NPDES (adopted in the January 6, 2015 decision) will be removed. Additionally, the new USFWS restriction pertaining to tree clearing and cutting (adopted in the August 11, 2015 decision) will be modified. The other new restriction pertaining to cultural materials (adopted in the August 11, 2015 decision) remains in effect.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the second condition pertaining to NPDES imposed in the January 6, 2015 decision in this proceeding is removed. Additionally, the new USFWS condition adopted in the August 11, 2015 decision is modified as follows: MCRR shall follow USFWS's requirement that tree clearing or cutting for salvage operations is only allowed to occur between November 1 and March 31.
3. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.